

## **REMARKS/ARGUMENTS**

### **Introduction**

Receipt of the non-final Office Action mailed October 31, 2007 is acknowledged. The claims presented for reconsideration are claims 1-20.

Claim 1 is amended to recite that the casing comprises polyamide or polyamide layers that absorb up to about 6% by weight of water. Support for this amendment may be found in paragraphs [0015]-[0016] of the published version of the application (i.e., page 5, lines 1-32 as filed). Claim 1 is further amended to recite an inner and outer surface for the casing wherein the antimicrobial constituent is applied to the inner or to the inner and outer surface of the casing. Support for this amendment is found in paragraph [0013] (i.e., page 4, lines 16-17 as filed).

Claim 2 is amended to remove the comma after the number "10."

Claim 9 is amended to change "an" to "the" before the inner surface and "the" is added before recitation of the outer surface. Antecedent basis is provided in claim 1 as currently amended.

No new matter is introduced with this amendment and response. Entry of this amendment and favorable reconsideration are earnestly solicited.

### **Rejection of Claims 1-9 and 13-20 Under 35 U.S.C. §102(b)**

Claims 1-9 and 13-20 stand rejected under 35 U.S.C. §102(b) as being anticipated by Smith (EP 0 190 630). With respect to independent claim 1, the Examiner contends that Smith allegedly teaches ready to stuff pre-moisturized food casings and methods for their manufacture. The Examiner further contends that Smith allegedly teaches that an antimicrobial agent, preferably an alkyl ester of p-hydroxybenzoic acid be included to prevent the development of molds and fungi. Lastly, the Examiner contends that Smith allegedly teaches that polymer based plastics can be used as the casing.

Applicant respectfully submits that claim 1 is not anticipated by Smith under 35 U.S.C. §102(b) because Smith fails to disclose a "polymer-based plastics foodstuff casing" as recited in claim 1 (emphasis added). Instead, Smith discloses that the casings

are formed from cellulose, cellulose ethers, cellulose esters, collagen, polyvinyl alcohol, amylose or high amylose starches, none of which comprise components of plastics (see page 17, lines 22 – page 18, line 1). In fact, the examples in Smith require that such fibrous casings be based on regenerated cellulose. Thus, Smith does not teach polymer-based plastics as recited in claim 1. For at least this reason, Applicant respectfully submits that the rejection of claim 1 is improper and should be withdrawn.

Secondly, Applicant respectfully submits that claim 1, as currently amended, is not anticipated by Smith under 35 U.S.C. §102(b) because Smith fails to disclose a food casing wherein the casing comprises polyamide or polyamide layers and wherein the polyamide casings or polyamide layers absorb up to about 6% by weight of water. In contrast to the food casings of claim 1, the food casings disclosed in Smith can absorb large amounts of water.<sup>1</sup>

Therefore, for at least the reasons set forth above, Applicant submits that Smith does not anticipate claim 1 or dependent claims 2-9 and 13-20 Smith under 35 U.S.C. §102(b) because Smith fails to disclose each and every element of claim 1. Thus, Applicant respectfully requests the Examiner withdraw this rejection.

**Rejection of claims 10-11 Under 35 U.S.C § 103(a)**

Claims 10-11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Smith in view of Quinones et al. (US 6,183,826). The Examiner contends that it is allegedly common in the art to coat the casing, especially the inner side of the casing, using a spray during the shirring process. The Examiner further contends it would allegedly be obvious to one of ordinary skill in the art at the time of the invention to combine the method of Smith with the spray of Quinones et al. because it provides an economical and fast way to lubricate the casing and to promote high speed shirring.

Applicant respectfully contends that claims 10-11 are not obvious under 35 U.S.C. §103(a) because the combined disclosures of Smith and Quinones fail to teach or

---

<sup>1</sup> The food casing disclosed by Smith can absorb high amounts of water (at least 40% by weight). (See page 8, last paragraph).

even suggest each and every aspect of claims 10-11. The Examiner admits that Smith is silent regarding spraying the solution containing the antimycotic agent on to the foodstuff casing. Secondly, Quinones fails to teach or suggest that an antimycotic agent could be applied to the inner surface during the shirring step. Furthermore, Quinones does not teach or suggest a process of producing a "polymer-based plastics foodstuff casing" much less a foodstuff casing wherein the antimicrobial constituent is applied to the inner or to the inner and outer surface of the casing as recited in claim 1 from which claims 10-11 depend. Thus, for at least the reason that neither Smith nor Quinones teach or even suggest each element of claims 10-11, Applicant respectfully submits that the rejection of these claims is improper and requests that the Examiner withdraw this rejection.

**Rejection of claim 12 Under 35 U.S.C § 103(a)**

Claim 12 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Smith in view of Quinones et al. (US 6,183,826) in further view of Hammer et al. (US 4,543,282). The Examiner contends that it would allegedly be obvious to one of ordinary skill in the art at the time of the invention to add a compound that improves peelability to the spray in Smith and Quinones because the invention of Hammer et al. makes it easy to peel the sausage from the sausage casing, which limits the chances that the sausage casing may break while being peeled from the sausage mixture.

Applicant respectfully contends that the process of claim 12 is not obvious under 35 U.S.C. §103(a) because the combined disclosures of Smith, Quinones and Hammer fail to teach or even suggest each and every aspect of claim 12. Claim 12 recites a process of producing a casing in which an easy-peel agent is applied to the inner surface of the tubular "polymer-based plastics" casing together with the antimicrobial agent. Hammer teaches an easy-peel coating on the inner surface of a tubular sausage casing, however, Hammer's casings are based on cellulose rather than polymer plastics as required by claim 1 from which claim 12 depends. Furthermore, neither Quinones nor Smith disclose a process for the production of a tubular, polymer-based plastics foodstuff casing wherein the alkyl para-hydroxybenzoate and/or its salt is applied onto the casing

via spraying. Thus, for at least the reason that none of the cited references teach or even suggest each element of claim 12, Applicant respectfully submits that the rejection of claim 12 is improper and requests that the Examiner withdraw this rejection.

**CONCLUSION**

Applicant believes the current claims are in condition for allowance. However, any comments or questions concerning the application can be directed to the undersigned at the telephone number given below.

Applicant does not believe any fees are due at this, however, the Commissioner is authorized to charge any deficiency in fees or credit any overpayments to Deposit Account No. 09-0528 (Docket #: P179 1210.US).

Respectfully submitted,

Date: January 21, 2008



Susan E. Shaw McBee, Esq.

Registration No. 39,294

Mark D. Jenkins, Esq.

Registration No. 59,566

Womble Carlyle Sandridge & Rice, PLLC

P.O. Box 7037

Atlanta, GA 30357-0037

Direct Phone: (703) 394-2274

Fax: (703) 790-2623

E-Mail: [smcbee@wcsr.com](mailto:smcbee@wcsr.com) or

[mjenkins@wcsr.com](mailto:mjenkins@wcsr.com)